

# WISCONSIN TELEPHONE SOLICITOR REGISTRATION

## ◀ FREQUENTLY ASKED QUESTIONS – NEW REGISTRANTS ▶

### **Who must register as a telephone solicitor?**

Under Wis. Stat. § 100.52(3) and (4)(b)1., and under Wis. Admin. Code ch. ATPC 127.81(1)(a), a company must register as a telephone solicitor if the company makes “telephone solicitations” to residential telephone customers in Wisconsin. Under Wisconsin law, the term “telephone solicitation” means making an unrequested telephone call or sending an unrequested text message to an individual’s personal telephone number for the purpose of encouraging the recipient to purchase something.<sup>1</sup>

If a company makes “telephone solicitations” within the meaning of Wisconsin law, then that company must register as a telephone solicitor with the Department of Agriculture, Trade and Consumer Protection (DATCP) pursuant to Wis. Stat. § 100.52(3), Wis. Stat. § 100.52(4)(b)1., and Wis. Admin. Code ch. ATPC 127.81(1)(a).

### **When a business uses a third party to download and access Wisconsin telephone numbers listed on the Federal Trade Commission’s (FTC) Do Not Call Registry (DNC), who is responsible for complying with state and federal law?**

Both parties are responsible for complying with the laws applicable to their respective activities. Moreover, a third party service provider who accesses the FTC’s DNC Registry on behalf of another entity must certify the organization they represent will comply with the requirements of the FTC’s DNC Registry. See 16 C.F.R. § 310.8(e).

### **What about “scrubbing”?**

“Scrubbing” is the practice of using the FTC’s DNC Registry to remove telephone numbers that appear on the registry from a company’s calling lists and databases. A DNC scrubber helps businesses stay compliant with federal requirements and avoid DNC violations.

Federal law prohibits anyone — including a company that provides “scrubbing” services to other companies — from using information obtained from the FTC’s DNC Registry to ultimately benefit a seller of goods or services who does not have its own current Subscription Account Number (SAN) for accessing the FTC’s DNC Registry.<sup>2</sup>

Wisconsin Stat. § 100.52(4)(b)(3) prohibits a telephone solicitor from using or possessing a copy or updated version of the state do-not-call registry that the telephone solicitor obtained in violation of federal law. Thus, a company violates Wisconsin law if it does not have its own SAN for accessing the FTC’s DNC Registry and does have a “scrubbed” list of Wisconsin telephone numbers that it uses when making telephone solicitations to Wisconsin residents. For purposes of Wisconsin law, the term

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<sup>1</sup> See Wis. Stat. § 100.52(1)(i) and Wis. Admin. Code ch. ATPC 127.80(10).

<sup>2</sup> See 15 U.S.C. § 6152(e); 16 C.F.R. § 310.8(a), (b), and (e); and 47 C.F.R. § 64.1200(c)(2)(i)(E), which was promulgated under authority of 47 U.S.C. § 227(c)(3)(G) and (H).

“telephone solicitation” means initiating an unsolicited telephone call or text messages to a Wisconsin resident as part of a plan to sell goods or services.<sup>3</sup>

If you are a business that does not have its own SAN, possesses a “scrubbed” list of Wisconsin telephone numbers, and is not registered with Wisconsin as a telephone solicitor, please provide us with written assurance that you are not making telephone solicitations to Wisconsin residents and explain your reason for possessing a “scrubbed” list of Wisconsin telephone numbers. Your written assurance may be sent electronically to [DATCPWINoCall@Wisconsin.gov](mailto:DATCPWINoCall@Wisconsin.gov) or mailed to DATCPWINoCall, PO Box 8911, Madison, WI 53708-8911.

Likewise, if you are a business with its own SAN, you access telephone numbers with Wisconsin area codes on the FTC’s DNC Registry, and you are not registered with Wisconsin as a telephone solicitor, please provide us with written assurance that you are not making telephone solicitations to Wisconsin residents and explain how you use the Wisconsin telephone numbers that are listed on the FTC’s DNC Registry. Your written statement may be sent electronically to [DATCPWINoCall@Wisconsin.gov](mailto:DATCPWINoCall@Wisconsin.gov) or mailed to DATCPWINoCall, PO Box 8911, Madison, WI 53708-8911.

**When may a business legally make a call to a telephone number on the state do-not-call registry as part of a plan to sell goods or services?**

Under Wis. Stat. § 100.52 and Wis. Admin. Code ch. ATPC 127, subch.V, if a Wisconsin consumer’s telephone number is listed on the state do-not-call registry, a business may nonetheless make an outgoing call to that number as part of plan to encourage the consumer to purchase products, goods, or services if at least one of the following three conditions is met:

- 1) The business has written evidence that the consumer affirmatively requested a call to discuss purchasing products, goods, or services.<sup>4</sup>
- 2) The consumer is a former client, and the call is made to determine whether the former client mistakenly allowed a contractual relationship to lapse.<sup>5</sup>
- 3) The consumer is a “current client,” which means the consumer “has a current agreement to receive, from the telephone caller or the person on whose behalf the call is made, property, goods, or services of the type promoted by the telephone call.”<sup>6</sup>

Under Wisconsin’s telephone solicitation laws, a consumer is not a “current client” of a business simply because that consumer previously purchased something from the business sometime during the preceding 18 months. Such a prior purchase is sufficient to satisfy the federal law’s “established business relationship” exception that permits calling a number on the federal do-not-call registry.<sup>7</sup>

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<sup>3</sup> See Wis. Stat. § 100.52(1)(i) and Wis. Admin. Code ch. ATPC 127.80(10).

<sup>4</sup> See Wis. Stat. § 100.52(6)(a) and Wis. Admin. Code ch. ATPC 127.80(10)(c) and ch. ATPC 127.84(1)(b). Federal law has a similar written evidence requirement. See 16 C.F.R. § 310.4(b)(1)(iii)(B)(1); see also 47 C.F.R. § 64.1200(c)(2)(ii).

<sup>5</sup> See Wis. Admin. Code ch. 127.80(10)(f).

<sup>6</sup> See Wis. Stat. § 100.52(6)(b) and Wis. Admin. Code ch. ATPC 127.80(2) and (10)(d).

<sup>7</sup> See 16 C.F.R. §§ 310.2(q)(1) and 310.4(b)(1)(iii)(B)(2); see also 47 C.F.R. § 64.1200(c)(2), (f)(5), and (f)(14).

However, a completed purchase during the prior 18 months is not enough to satisfy Wisconsin law's "current client" exception that it permits calling a number on the state do-not-call registry, and there is no federal preemption of state do-not-call laws.<sup>8</sup>

### **What are Wisconsin area codes?**

Wisconsin currently has eight area codes in service: 262, 274, 353, 414, 534, 608, 715, and 920.

### **How do I register?**

1. You can register by going to the Wisconsin Department of Agriculture, Trade and Consumer Protection webpage at [TelemarketerRegistration.wi.gov](https://www.wisconsin.gov/telemarketerregistration).
2. In the right hand corner, you will see a button to "Register Online". The link will direct you to the online portal where you will create a username and password.
3. Once you are on the telemarketer solicitor registration page, read carefully through the instructions and then proceed to the bottom of the page and click "Start New Application".

### **What is a written assurance?**

A written assurance is a written response, via email or hardcopy, which includes the following:

- Affirmation the entity understands how the State of Wisconsin defines the term "telephone solicitation" (See Wis. Stat. § 100.52(1)(i) and Wis. Admin. Code ch. ATPC 127.80(10))
- Affirmation the entity understands how the State of Wisconsin defines the term "current client" (See Wis. Admin. Code ch. ATPC 127.80(2))
- Affirmation the entity is not making telephone solicitations to Wisconsin telephone numbers in violation of Wisconsin law set forth in Wis. Stat § 100.52(4)(b)1. and Wis. Admin. Code ch. ATPC 127.81.
- A detailed explanation as to why the entity is accessing and downloading Wisconsin area codes from the FTC's DNC and how that data is being used.

### **◀ Contact Us ▶**

If you would like a copy of the Wisconsin statutes or administrative rules cited above, please visit <http://legis.wisconsin.gov>.

If you have any questions, please call (608) 224-4999 or email [DATCPWINoCall@Wisconsin.gov](mailto:DATCPWINoCall@Wisconsin.gov). We are available to assist you Monday through Friday from 7:45-4:30 CST or you can contact the FTC at [www.ftc.gov/about-ftc/contact](http://www.ftc.gov/about-ftc/contact).

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<sup>8</sup> See 15 U.S.C. § 6103(f)(1) and 16 C.F.R. §310.7(b); see also 47 U.S.C. § 227(f)(1)(D) and (g)(6).